

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Tracie Fludd,)	Civil Action No. 3:13-2635-MBS
)	
Plaintiff,)	
)	
vs.)	
)	ORDER AND OPINION
Richland County EMS,)	
)	
Defendant.)	
_____)	

Plaintiff Tracie Fludd (“Plaintiff”) brings this action alleging race discrimination and retaliation pursuant to 42 U.S.C. § 1981; 42 U.S.C. § 1983; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*, against her former employer, Richland County EMS (“Defendant”). This matter is before the court on motion of Defendant to dismiss or, in the alternative, for summary judgment, filed on August 29, 2014. ECF No. 18. Plaintiff filed a response in opposition on September 22, 2014 (ECF No. 23), to which Defendant filed a reply on October 2, 2014 (ECF No. 25). In accordance with 28 U.S.C. § 636(b) (2012) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Paige J. Gossett for a Report and Recommendation. The Magistrate Judge filed a Report and Recommendation on January 21, 2015, recommending that Defendant be granted summary judgment. ECF No. 29. Plaintiff filed objections to the Report and Recommendation on February 9, 2015. ECF No. 30. Defendant replied to Plaintiff’s objections on February 11, 2015. ECF No. 31.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a *de novo*

review of any portions of the Report and Recommendation to which a specific objection is made. *Id.* The district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. *Orpiano v. Johnson*, 687 F.2d 44, 47-48 (4th Cir. 1982). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge. 28 U.S.C. § 636(b)(1).

Plaintiff's objections do not direct the court to a specific error in the Magistrate Judge's Report and Recommendation. *Orpiano*, 687 F.2d at 47-48. Nevertheless, the court has conducted a *de novo* review of the issues in this case and concludes that the Magistrate Judge has properly applied the applicable law. The court specifically reviewed those conclusions of the Magistrate Judge which were mentioned in Plaintiff's objections. First, the Magistrate Judge properly found that Plaintiff failed to identify any similarly situated white employee that engaged in the same conduct as Plaintiff without mitigating circumstances who was treated differently by Defendant. Plaintiff's recitation of the February 1, 2012, backing incident in which Plaintiff was disciplined for hitting a bay door while driving an ambulance is unavailing because the other employee involved in that incident who was not reprimanded had, by the Plaintiff's own admission, mitigating circumstances, i.e., he was "on probation." ECF No. 30 at 1. Second, even assuming that the undated complaint to County Councilman Norman Jackson, as related by Plaintiff in her objections, was a protected activity and occurred after Plaintiff's EEOC complaint, ECF No. 31 at 2, the Magistrate Judge properly concluded that Plaintiff nonetheless failed to present sufficient evidence to show that Defendant's proffered reasons for dismissing Plaintiff were false or were otherwise a pretext for retaliation.

Based upon the foregoing, the court adopts and incorporates herein by reference the Report and Recommendation of the Magistrate Judge. The court **grants** the Defendant's motion for summary judgment (ECF No. 18).

IT IS SO ORDERED.

s/ Margaret B. Seymour
Margaret B. Seymour
Senior United States District Court Judge

February 13, 2015
Columbia, South Carolina